

Item SP05- 04 Response Form

Title: Juror Note-Taking (adopt Cal. Rules of Court, rule 863)

- ☐ Agree with proposed changes
- ☐ Agree with proposed changes **if modified**
- ☐ **Do not agree** with proposed changes

Comments: _____

Name: _____ **Title:** _____

Organization: _____

Address: _____

City, State, Zip: _____

Please **write** or **fax** or **respond using the Internet** to:

Address: Ms. Romunda Price,
Judicial Council, 455 Golden Gate Avenue,
San Francisco, CA 94102
Fax: (415) 865-7664 **Attention:** Romunda Price
Internet: www.courtinfo.ca.gov/invitationstocomment

DEADLINE FOR COMMENT: 5:00 p.m., Monday, June 20, 2005

Your comments may be written on this *Response Form* or directly on the proposal or as a letter. If you are not commenting directly on this sheet please remember to attach it to your comments for identification purposes.

*Circulation for comment does not imply endorsement by the Judicial Council, the Rules and Projects Committee, or the Policy Coordination and Liaison Committee.
All comments will become part of the public record of the council's action.*

Title	Juror Note-Taking (adopt Cal. Rules of Court, rule 863)
Summary	Proposed rule 863 would require a court to permit jurors to take written notes in civil and criminal cases.
Source	Criminal Law Advisory Committee and Civil and Small Claims Advisory Committee
Staff	John A. Larson, 415-865-7589, Senior Court Services Analyst, john.larson@jud.ca.gov
Discussion	<p>Given that the practice of juror note-taking is in wide use in California courts and educational materials are available to support judicial implementation, the Task Force on Jury System Improvements recommended a rule of court to mandate the procedure in its Final Report. The task force believed that note-taking enhances juror comprehension and promotes greater attentiveness during trials. Concerns about jurors giving too much weight to notes and not enough to watching what actually occurs in the courtroom have not been borne out by experience. The task force viewed note-taking as a simple and effective aid for jurors.</p> <p>The proposed rule requires that:</p> <ul style="list-style-type: none"> • Jurors must be permitted to take written notes in all criminal and civil trials. • Judges must inform jurors of the right to take written notes. • Courts must provide jurors with materials for note-taking. <p>Because <i>Bench Handbook: Jury Management</i> (CJER, 2002) provides guidance to bench officers on post-trial disposition of notes, the task force did not recommend a provision regarding judicial discretion over the disposition of notes in the recommended rule. This rule proposal includes a provision requiring the court to provide “suitable” note-taking materials (meaning paper and writing implements only).</p> <p>In addition, owing to the interplay between jurors’ rights to take notes, existing cautionary jury instructions regarding note-taking, and the</p>

relative weight jurors should give notes during deliberations, an advisory committee comment is included that cites the relevant CACI and CALJIC instructions. (See CACI 102, 5010 and CALJIC 1.05.)

Attachment

Rule 863 of the California Rules of Court is adopted, effective January 1, 2006, to read:

Rule 863. Juror note-taking

Jurors must be permitted to take written notes in all civil and criminal cases. At the beginning of a trial, the trial judge must inform jurors that they may take written notes during the trial. The court must provide materials suitable for this purpose.

Advisory Committee Comment

Several cautionary jury instructions address jurors' note-taking during trial and use of notes in deliberations. (See CACI 102, 5010 and CALJIC 1.05.)